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8-17-1954

54/08/17 Doctor Owes Release to Ohio Bill of Rights

Cleveland Plain Dealer

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Cleveland Plain Dealer, "54/08/17 Doctor Owes Release to Ohio Bill of Rights" (1954). *All Articles*. 449.
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Doctor Owes Release to Ohio Bill of Rights

Dr. Samuel H. Sheppard owed his release from jail yesterday on \$50,000 bond to a Bill of Rights clause in the Ohio Constitution, Common Pleas Judge William K. Thomas pointed out in announcing his decision on the bail issue.

The pertinent language, contained in Article I, Section 9, of the Constitution, reads:

"All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident or the presumption great * * *"

Remarking that he was not entitled to make a presumption because there was no proof or evidence before him, Judge Thomas paved the way to freedom for the Bay Village osteopath, who had been held in County Jail since July 30, when he was charged with first-degree murder in the death of his wife, Marilyn.

This action of the court, which

was criticized sharply by the county prosecutor's office and the Cleveland Police Department, came after Judge Thomas continued until 1:30 p. m. tomorrow a preliminary hearing for Dr. Sheppard on the murder charge.

When bail was requested by Defense Counsel William J. Corrigan the judge retired to his chambers to consider the question, returning with his decision in slightly more than an hour.

It was pointed out that the \$50,000 bond was posted by Dr. Sheppard to guarantee his appearance in court for the pending preliminary hearing.

Should an indictment be returned in the meantime by the grand jury, which heard evidence in the case while the legal wrangle occurred in Judge Thomas' courtroom, this would constitute a new charge, and a new bond would have to be set.

Comments on Fee

Thomas J. Weber of the Progressive Mutual Insurance Co., who arranged the signing of the \$50,000 surety bond, said he would not require a new fee from Dr. Sheppard if the same bail were continued by the court following an indictment.

Weber would not reveal the fee he obtained, but the usual price for such a bond is about 7% of the bond, the clerk of court's office reported.

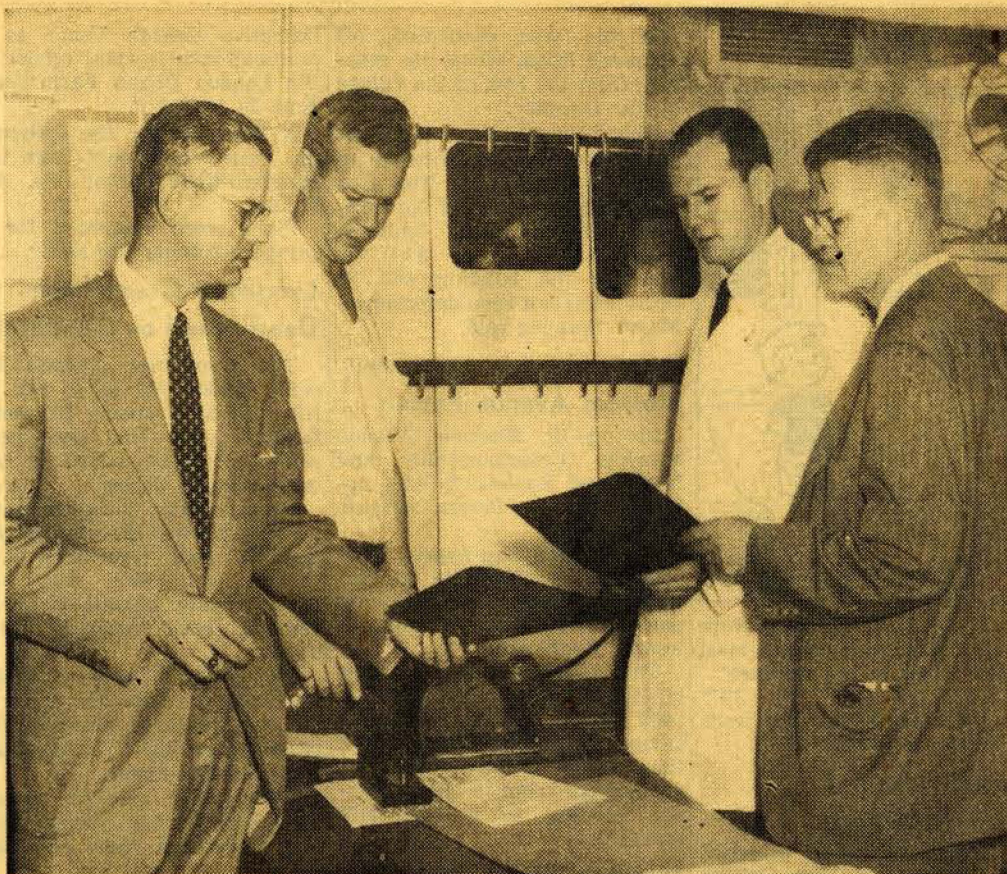
Here is a summary of the proceedings when the court announced its decision:

Judge Thomas began: "The question first arises: Is he (the defendant) entitled to apply for bail in a first-degree murder case? The Constitution says yes."

The judge then quoted the section from the Bill of Rights, adding that in 1933 the Ohio Supreme Court held that even an indictment did not constitute a great enough presumption of guilt to preclude the court from setting bond.

"In this case," he continued, "we do not even have the presumption of an indictment. What is the evidence in front of me here? The answer is very clear. There is no evidence before me."

In authorizing bail, Judge Thomas asserted, he was not passing on the question of Dr.



BACK ON THE JOB. Dr. Samuel H. Sheppard posed with his brothers and his father in the X-ray laboratory of Bay View Hospital after he returned to his hospital duties. Left to right are Dr. Stephen A., Dr. Richard N., Dr. Sam and Dr. Richard A., the father.

Sheppard's guilt or innocence.

"Having in mind that this is an American court, operating under our Constitution and Bill of Rights, the application for bail will be granted," he concluded.

The judge then called a brief recess to consult his law books on what would be a reasonable bond. He said he was interested in a Court of Appeals decision on the Joseph (Papa Joe) Cremati case, which upheld the setting of \$50,000 bail on six charges of assault.

Back on the bench, Judge Thomas asked for statements from the contending lawyers.

Assistant County Prosecutor Saul S. Danaceau said tersely: "We oppose release on any bail; other than that, it is up to the court."

Defense Counsel William J. Corrigan asked that "bail be set at a reasonable figure."

"Until this time, he argued, 'Dr. Sheppard bore an excellent reputation in the community, committing no crime except perhaps the sins that we all sometimes are guilty of.'"

Brushes Away Tears

An allusion to Dr. Sheppard's family and his murdered wife brought tears to the eyes of the defendant. The osteopath brushed away the tears with his knuckles.

"If I did not have confidence in his innocence you may be sure he would not have testified in public (at the coroner's inquest) for five and a half hours," Corrigan added.

"Granting everything that Mr. Corrigan says may be true, I must not overlook the seriousness of this charge," Judge Thomas said. "Bail will be \$50,000."

After that, it took less than a half hour to check out Dr. Sheppard at the jail booking desk and to put the bond before him for his signature.

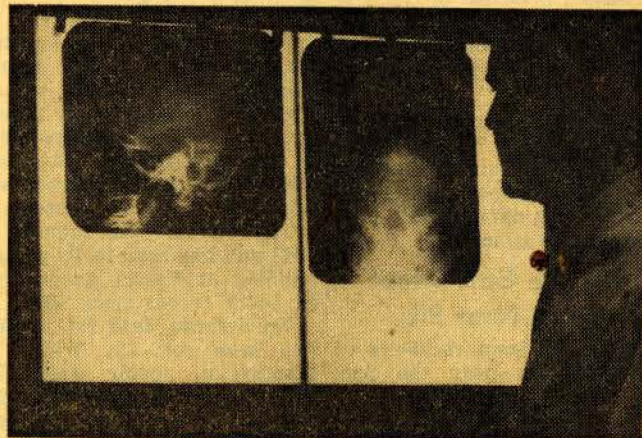
Danaceau Explains

The accused murderer left the building in the company of a brother, Dr. Richard N. Sheppard, and was whisked away in the latter's car.

Explaining his decision to newsmen afterward, Judge Thomas asserted the prosecutor's office might have blocked Dr. Sheppard's release by presenting some of the evidence it had to the court.

But Danaceau said the case was being given to the grand jury first as a tactical move, to bar the exposure of evidence to the defense counsel.

When the continuance of the preliminary hearing was granted at his request, Danaceau said, with no objection from the defense attorneys, he understood this obviated the need of presenting any evidence at the time.



SILHOUETTE. The camera caught Dr. Samuel H. Sheppard outlined against the illuminated panel used to bring out details in X ray photographs as he went back to work at Bay View Hospital.



MRS. NANCY AHERN, last to bid Marilyn Sheppard good night before Marilyn was beaten to death, was one of the first grand jury witnesses.